

STATE • INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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INDIANAPOLIS, INDIANA 46204-2764

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PETITION OF NORTHERN INDIANA)
PUBLIC SERVICE COMPANY)
SEEKING APPROVAL OF)
ACCOUNTING TREATMENT WITH)
RESPECT TO CERTAIN COSTS)
INCURRED BY PETITIONER AS A)
RESULT OF TAKING TRANSMISSION)
SERVICE UNDER THE OPEN ACCESS)
TRANSMISSION TARIFF OF THE)
MIDWEST INDEPENDENT TRANS-)
MISSION SYSTEM OPERATOR, INC.)
TO SERVE ITS INDIANA RETAIL)
ELECTRIC CUSTOMERS)

FILED

MAR 1 1 2004

INDIANA UTILITY
REGULATORY COMMISSION

CAUSE NO. 42519

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") has caused the following entry to be made:

On February 11, 2004, Intervenor NIPSCO Industrial Group ("NIPSCO-IG") filed a *Motion to Dismiss or, in the Alternative, to Re-Docket Proceeding in Cause No. 41746* ("Motion to Dismiss"). Also on February 11, 2004, the Indiana Office of the Utility Consumer Counselor ("OUCC") filed *Indiana Office of the Utility Consumer Counselor's Joinder in the NIPSCO Industrial Group's Motion to Motion to Dismiss or, in the Alternative, to Re-Docket Proceeding in Cause No. 41746*. On February 23, 2004, Northern Indiana Public Service Company ("NIPSCO") filed the *Response of Northern Indiana Pubic Service Company in Opposition to Motion to Dismiss*. On February 27, 2004, NIPSCO-IG filed a *Reply in Support of the NIPSCO Industrial Group's Motion to Motion to Dismiss or, in the Alternative, to Re-Docket Proceeding in Cause No. 41746*.

In its Motion to Dismiss, NIPSCO-IG states, *inter alia*, that: "NIPSCO's Petition in this cause is an improper attempt to modify the Stipulation and Settlement Agreement approved by the Commission in Cause No. 41746, by increasing the charges that NIPSCO will pass on to its ratepayers." Motion to Dismiss at 1. NIPSCO-IG goes on to indicate that any attempts to modify the Settlement Agreement must be pursued only in accordance the terms of the Agreement, or should be attempted only pursuant to a filing in Cause No. 41746. Motion to Dismiss at 4. In its Response, NIPSCO indicated that it opposed dismissal of this matter or having the proceeding redocketed under Cause No. 41746.

The petition filed by NIPSCO in this Cause appears to satisfy the salient requirements set forth in 170 IAC 1-1.1-9, in that it contains: A caption that describes, in general terms, the relief being sought; a plain and concise statement of the facts showing the interest of each of the petitioner in this Cause; and, a plain and concise statement of the facts that necessitate or justify relief. In reaching our determination regarding the pending motions, the Presiding Officers note that all parties have prefiled testimony in this matter pursuant to the timeframes set forth in this Cause, and this matter has been legally noticed for Evidentiary Hearing on March 15, 2003. We also note that this Cause was filed under this separately docketed proceeding pursuant to the Commission's Order in Cause No. 42349 (*Ind. Util. Reg. Comm'n*, September 24, 2003).

While the Presiding Officers' recognize that the applicability of the Settlement Agreement has been raised by certain parties, and that the terms of the Settlement Agreement may, or may not, play a role in the Commission's consideration of the issues in this Cause, we believe that this matter should proceed as docketed. None of the parties have identified any specific legal requirement that makes it necessary or appropriate for us to simply "redocket" this matter under Cause No. 41746, and we find that doing so at this juncture (even if we were inclined to do so) would only serve to delay a decision by the Commission on the issues presented by NIPSCO.

Therefore, as this matter has been legally noticed and NIPSCO's Petition is properly before the Commission, this Cause should provide all interested parties with an opportunity to present argument regarding the relief requested by NIPSCO. Therefore, NIPSCO-IG's Motion to Dismiss is hereby DENIED.

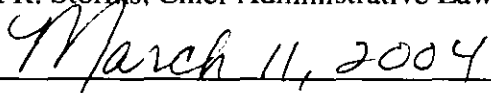
IT IS SO ORDERED.



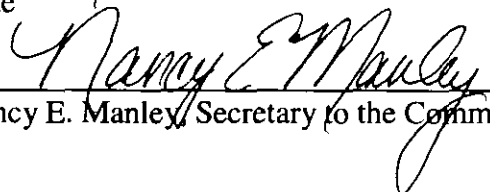
David E. Ziegner, Commissioner



Scott R. Storms, Chief Administrative Law Judge



Date



Nancy E. Manley, Secretary to the Commission